

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16176 of Lan Ying Lin Ip, as amended, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Subsection 330.5) to allow a grocery store on the first floor in an R-4 District at premises 1727 North Capitol Street, N.E. (Square 3512, Lot 19).

HEARING DATE: December 4, 1996 and February 19, 1997
DECISION DATE: April 9, 1997

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5C and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 5C. ANC 5C, which is automatically a party to the application, did not file a written statement related to the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 330.5. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates an undue hardship for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The store shall operate from 9:00 a.m. to 9:00 p.m., Monday through Saturday and 12:00 p.m. to 5:00 p.m. on Sundays.


2. The applicant shall operate a grocery store whose products shall primarily consist of dry goods, dairy products, sodas, snacks, candy, coffee and similar products. No items requiring cooking shall be sold.
3. Any heating of foods or beverages shall be limited to the use of a microwave.
4. Deliveries shall be made no more than twice per week between 9:00 a.m. and 5:00 p.m.
5. The applicant may hire no more than three employees to assist customers and maintain the premises in a safe and neat condition free of trash and debris at all times.
6. Trash shall be collected twice per week.
7. A new sign shall be installed. The new sign shall meet the requirements of applicable codes. No neon sign shall be used.
8. Storage shall be in the basement only.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirements of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0 (Susan Morgan Hinton, Laura M. Richards and Sheila Cross Reid to grant; Angel F. Clarens not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

MAY 5 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AS THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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